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From: CN=Mary Grady/OU=DC/O=USEPA/C=US

Sent: Thur 1/17/2013 3:49:48 PM

Subject: Water Law News for January 17, 2013

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WATER LAW NEWS

JANUARY 17, 2013

HIGHLIGHTS

EPA Analysis Shows Releases of Toxics Rose 8 Percent in 2011

Total releases and transfers of toxic chemicals in the United States increased by 8 percent from 2010 to 2011, to 4.09 billion pounds, according to an analysis by EPA of Toxics Release Inventory data. The rise is mainly due to increases in land disposal at metal mines, where small changes in the composition of the ore being mined can lead to big changes in the amount of toxic chemicals reported, EPA says. It is the second year in a row in which releases have increased. ... More »

Salazar to Step Down With Legacy of Drilling Reforms, Renewable Energy

Interior Secretary Salazar, who announced plans to step down in March, wins praise from environmental advocates and fellow Democrats for his actions over the past four years, but few tears are shed by Republicans and the oil and gas industry. Salazar's tenure is noted for a significant expansion of renewable energy projects on federal lands; a six-month drilling moratorium in the Gulf of Mexico following the April 2010 BP Deepwater Horizon oil blowout/spill; and for lively partisan battles on Capitol Hill over access to federal lands for energy development. ... More »

Maryland Governor Seeks \$1.5 Million to Study Fracking in State

Maryland Gov. Martin O'Malley (D) proposes spending \$1.5 million to study the impact of hydraulic fracturing on public health and the environment in western Maryland. Plans for the study have been stalled due to disagreements over how to pay for the much-anticipated review of whether and how shale-gas production should be allowed to proceed in the state. O'Malley's proposal would provide \$1 million to support both a public health and economic analysis and \$500,000 to establish baseline data for groundwater, surface water, and air in the area. ... More »

OUTLOOK 2013

ENFORCEMENT: EPA is expected to continue targeting its enforcement actions against the largest sources of air pollution, particularly coal-fired power plants. ... More »

MAJOR COURTS: The U.S. Supreme Court will have decisions in Clean Water Act and water rights cases, while lower federal court dockets are busy with cases addressing air pollution, solid waste, renewable fuels, mining, and other issues. ... More »

ALSO IN THE NEWS

CLIMATE CHANGE: Preservation of Virginia's coastal region will require a commitment to address politically difficult land-use restrictions as well as major investments in flood-prevention infrastructure, a report to the governor says. ... More »

CLIMATE CHANGE: Developing early warning systems is one of the key elements of increasing the

ability of communities to respond to severe weather events arising from climate change, a conference is told. ... More »

MINING: License application for uranium mill allowed to proceed in Colorado A-16

MINING: Wisconsin lawmakers resurrect bill to reform permit process for ferrous mines A-16

Inside EPA Weekly Report, 1/18/13

<http://insideepa.com/Inside-EPA/Inside-EPA-01/18/2013/menu-id-67.html>

Justices Reject Arguments To Restrict Chevron In Jurisdictional Cases

Supreme Court justices appeared resistant to petitioners' claims during oral arguments Jan. 16 that lawsuits dealing with the limits of an agency's jurisdiction should be subject to different levels of judicial deference -- indicating that the high court is unlikely to use the closely watched case to curtail EPA's ability to expand Clean Water Act (CWA) jurisdiction as industry amici have asked.

Environmentalists Resist EPA Bid To Drop Some Nutrient Criteria In Florida

Environmentalists are asking a federal judge to block EPA's attempt to drop its proposed nutrient criteria for some Florida waters, in particular a proposed rule that would require upstream discharge limits that are adequate to protect downstream waters -- the first in an expected series of legal fights over the agency's approval of Florida's nutrient rules.

EPA, Agencies Sign Pact To Coordinate On Medications In Drinking Water

EPA has signed an agreement with three other federal agencies to improve collaboration and coordination on the impacts of pharmaceuticals in drinking water, responding to a 2011 Government Accountability Office (GAO) report that found the lack of such an agreement was hampering efforts to regulate potential drinking water contaminants.

DEA Draft Rule Aims To Ease Consumer Disposal Of Waste Pharmaceuticals

A newly proposed rule from the Drug Enforcement Administration (DEA) would expand the ways individuals and some health care facilities can safely dispose of waste pharmaceuticals, potentially addressing long-standing calls from product stewardship advocates and others to reduce the environmental impacts, especially to water, of unused medication.

Latest Blogs

House Backs EPA 'Resiliency' Funds

The House has approved \$600 million in new spending for EPA's state revolving loan funds (SRF) to strengthen water infrastructure as part of an aid . . .

OMB Begins Power Plant ELG Review

EPA has sent its proposed effluent limitation guidelines (ELGs) for coal- and steam-fired power plants for White House Office of Management & Budget (OMB) review, . . .

WATER POLLUTION:

EPA sends power-plant discharge rule to White House

Annie Snider, E&E reporter

Published: Wednesday, January 16, 2013

U.S. EPA has sent a proposed rule aimed at curbing discharges of polluted water from power plants to the White House for review.

The agency agreed to tighten rules on power plants' discharges of arsenic, lead, chromium, mercury and other toxins under a consent decree with advocacy groups the Environmental Integrity Project, Defenders of Wildlife and the Sierra Club in 2010. The rules have not been updated since 1982.

After several delays, the rules are now scheduled to be issued by April 19 and finalized by May 22, 2014, under an agreement struck last month with the environmental groups (Greenwire, Dec. 12, 2012).

"We're hopeful that we'll see a strong rule because the technology is clearly there to reduce or even eliminate these discharges in some cases," said Jennifer Peterson, an attorney with the Environmental Integrity Project.

EPA pointed to coal-combustion wastewater as particularly harmful in a 2009 report on power plants' discharges.

"The total amount of toxic pollutants currently being released in wastewater discharges from coal-fired power plants is estimated to be significant and raises concerns regarding the long-term impacts to aquatic organisms, wildlife, and human health that are

exposed to these pollutants," the agency wrote. "Many of these impacts may not be realized for years due to the persistent and bioaccumulative nature of the pollutants released."

The heightened regulation would likely drive up electricity bills, though, as plants moved to install the necessary pollution controls. Industry group the Utility Water Act Group, which tried to intervene in the environmental groups' lawsuit, said in a recent court filing that impacts on its members "would be concrete and particularized, immediate, and causally related to this lawsuit."

MINING:

Toxics report spurs call for new industry financial assurances

Manuel Quinones, E&E reporter

Published: Wednesday, January 16, 2013

A watchdog group urged U.S. EPA today to require hardrock miners to post additional financial assurances in the wake of a new agency report on toxic pollution.

EPA's 2011 Toxics Release Inventory lists metals mining as the industry with the most releases of toxics, discharging 1.9 billion pounds of waste in 2011.

"In this sector, even a small change in the chemical composition of the ore being mined -- which EPA understands is one of the asserted reasons for the increase in total reported releases -- can lead to big changes in the amount of toxic chemicals reported nationally," the agency said in a news release.

Mining companies were largely responsible for the 19 percent increase in land waste released since 2010, EPA said. Surface water discharges declined 3 percent (Greenwire, Jan. 16).

Watchdog group Earthworks said the latest inventory shows a need for new financial assurance requirements for hardrock mines under the Superfund law. The agency is not planning to release a draft rule until next year, the group said.

"If the EPA doesn't act soon to require cleanup bonds, taxpayers could be paying the cleanup bill instead of the polluting mining companies," Earthworks spokesman Alan Septoff said. "Meanwhile, our nation's rivers, streams, air and land remain at risk."

The group's Northwest advocate, Bonnie Gestring, pointed to Hecla Mining Co.'s Lucky Friday silver mine as a prime example of a pollution source. EPA said it released 17 million pounds of waste in 2011.

"Idaho doesn't require a bond for underground mines, so taxpayers could be on the hook for more than \$100 million in mine cleanup costs at this mine alone," she said.

Mining allies in Congress have criticized the impending new financial assurance requirements, even trying to insert riders into spending bills to control EPA action.

The lawmakers have pointed to Bureau of Land Management and Forest Service requirements for mines on federal land. The National Mining Association has also touted state laws and modern mining techniques (E&E Daily, March 9, 2011).

NMA has said that almost all substances reported in the toxics inventory occur naturally and that federal and state regulators already oversee disposal. The group has noted that the Toxics Release Inventory is not an evaluation of risk.

"Mining operations continue to represent a minor percentage of the total releases to air and surface waters covered in the TRI reports," NMA said in a statement, in contrast to land release numbers. "This has been a consistent feature of mining's reports over the 14 years mining operations have been included in TRI."

EPA said releases went up despite a fairly stable production output from mines. The National Mining Association, however, said there were increases in gold, copper, iron and molybdenum production. It also cited resumption of mining at a Nevada operation. NMA and EPA both cited ore body composition and reporting requirements as a reason for the results. EPA said, "Such factors are particularly significant in cases where large quantities that qualify for a concentration-based exemption in one year may become reportable in their entirety the next year due to very small increases in the concentration of a toxic chemical in waste rock."

EPA received information from 87 metals mining facilities, mostly in the West. The agency said six of those had implemented activities to reduce their waste releases. It said companies recycled 49 million pounds and treated almost 13 million pounds of toxic waste.

Electric utilities and chemical companies ranked second and third on EPA's list based on TRI releases. The coal mining industry ranked 14th.

HYDRAULIC FRACTURING:

EPA reversed well-contamination order after driller protested

Published: Wednesday, January 16, 2013

This story was updated at 3:21 p.m. EST.

U.S. EPA decided not to move forward with a potential well-contamination case after the driller threatened not to cooperate with a national study into hydraulic fracturing, according to a confidential report.

A resident of a Fort Worth, Texas, suburb reported that his family's drinking water had begun to bubble like Champagne, leading EPA to issue an emergency order that said at least two homeowners could be in danger from flammable methane seeping into a well.

More than a year later, the agency rescinded its order against driller Range Resources, setting aside scientific evidence that said hydraulic fracturing could be the cause of the problem. The agency has not offered a public explanation for why it changed its

order.

In a statement, EPA said resolving the matter would allow the agency to shift its "focus in this case away from litigation and toward a joint effort on the science and safety of energy extraction."

EPA's decision ignored the dangers of the situation, said Steve Lipsky, who lives in Weatherford, Texas, the Fort Worth suburb, and is a member of one of the families affected by the contaminated well.

"I just can't believe that an agency that knows the truth about something like that, or has evidence like this, wouldn't use it," Lipsky said (Ramit Plushnick-Masti, AP, Jan. 16).

Energy In Depth, a campaign created by the industry trade group Independent Petroleum Association of America, issued a rebuttal, denying claims that EPA changed its position because of Range. Instead, the campaign said, the scientific research EPA had intended to use had been called into question. -- JE

DOE:

Construction of Hanford waste-treatment plant continues

Published: Wednesday, January 16, 2013

After seven months of delays, construction will begin again on a waste-treatment plant located at the nation's most contaminated nuclear site.

The plant on Washington state's Hanford nuclear reservation is estimated to cost \$12.3 billion. The plant is 85 percent complete, and construction is more than halfway finished.

The Department of Energy halted construction months ago amid concerns about the plant's eventual safe operation and technical issues.

DOE is considering whether to feed waste into one of two parts of the facility depending on radioactivity rather than feed it into a pretreatment facility.

The plant would convert millions of gallons of radioactive waste into glasslike logs for storage. Currently, the site's waste is stored in underground tanks that have leaked into groundwater (Shannon Dininny, Seattle Post-Intelligencer, Jan. 15). -- MM

WATER POLLUTION:

Tanker shifted direction at last minute before accident

Published: Wednesday, January 16, 2013

A last-minute decision by the pilot of the oil tanker that hit a bridge in the San Francisco area last week may have been part of the accident's cause, experts said.

Pilot Guy Kleess decided to change course and head between a different set of towers under the Bay Bridge. This move made the ship more vulnerable to the current that cuts under the bridge. According to experts, he would have had less margin for error from the course change as he steered the Overseas Reymar.

"I don't know why he changed direction, and that sort of information will have to come out in the investigation," said Peter McIsaac, president of the San Francisco Bar Pilots association.

The accidental sideswiping resulted in more than \$2 million in damage to one of the towers. But because the tanker was empty, no oil spilled into the bay.

The Coast Guard is investigating different possible causes for the accident, including human error and equipment failure (Kevin Fagan, San Francisco Chronicle, Jan. 15). -- JE

ClimateWire -- Thu., January 17, 2013 -- Read the full edition

1. FOSSIL FUELS: Coal's 'lifeline to Asia' emerges as new front in global warming fight

PORT WESTWARD, Ore. -- This 900-acre industrial park features a horseshoe-shaped dock of timber and steel that juts out into the Columbia River, an hour's drive north of Portland. During World War II it shipped bullets and bombs across the Pacific. Now it's providing ammunition for a new battle: whether to export substantial amounts of coal from the western United States to Asia.

2. SCIENCE: High 2012 temperatures led to earliest flowering ever in eastern U.S.

Record-high temperatures in 2012 led to massive droughts and wildfires, but tiny wildflowers like the dwarf dandelion and the shooting star were also affected by the especially warm spring. Their early blooming has the potential to disrupt the ecosystem, scientists say, but perhaps it could be a sign of plants' resilience.

TODAY'S STORIES

3. ENERGY EFFICIENCY: Lawsuit could force costly delay in new gas furnace standards

4. ADAPTATION: Disaster response must be quicker, more flexible to handle growing climate uncertainty

5. ADVOCACY: Activist says debate about genetically modified food is 'over,' setting off conflict among green groups

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E&ETV's OnPoint
14. ENERGY POLICY: Pew Clean Energy's Cuttino gives recommendations for clean energy standard, production incentives

EnergyWire -- Thu., January 17, 2013 -- Read the full edition

1. POLITICS: Alaska governor proposes 'more competitive' flat tax for oil
Alaska state officials last night fired the first shots in what promises to be a heated battle over oil-production tax reform in the 2013 legislative session, with Gov. Sean Parnell (R) calling for a flat 25 percent state oil tax and state Democratic leaders warning that the proposal would slash state revenue by \$2 billion each year and result in huge budget deficits.
2. HYDRAULIC FRACTURING: Republican senators slam EPA's delay on Pavillion report
U.S. EPA is facing renewed pressure from Capitol Hill to re-evaluate a high-profile investigation of groundwater contamination from hydraulic fracturing operations in Wyoming. In a letter today to EPA Administrator Lisa Jackson, Republican Sens. David Vitter of Louisiana and James Inhofe of Oklahoma panned the agency for recently announcing plans to delay its work on the case for eight months.

THIS MORNING'S STORIES

3. MARKETS: BP sees conventional energy's growth eclipsing shale revolution
4. HYDRAULIC FRACTURING: Filmmakers decry 'death, destruction' myths as they tout pro-fracking documentary
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